

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTHONY R. BOYKIN,

Plaintiff,

vs.

J. BAINBRIDGE, et al.,

Defendants.

Case No. 3:06-CV-00011-PMP-(RAM)

ORDER

On January 22, 2007, the Honorable Robert A. McQuaid, United States Magistrate Judge, entered a Report and Recommendation (#55) regarding Defendants' Motion to Dismiss (#15). Judge McQuaid's Report sets forth the following recommendation:

IT IS THEREFORE RECOMMENDED that as to Defendants' Motion for Summary Judgment (Doc. #15) the District Judge enter an order (1) GRANTING the motion for summary judgment on Count I, (2) DENYING the motion for summary judgment as to Plaintiff's Count III deliberate indifference claims, (3) GRANTING summary judgment on Count II, (4) GRANTING summary judgment as to Plaintiff's deprivation of food claims from Count III, (5) DENYING summary judgment as to Plaintiff's excessive force claims, (6) GRANTING summary judgment on Plaintiff's claims under Nev. Rev. Stat. 200.371 and 200.471 in Count III, (7) GRANTING the motion for summary judgment as to Count V (transfer of money to White Pine County

1 Public Defender), (8) GRANTING the motion for summary judgment on the
2 claims of retaliation, in both counts III and IV, and (9) DENYING summary
3 judgment on Count IV. Plaintiff's Motion for Judgment on the pleadings
4 (Doc. #22) should be denied.

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6 On January 25, 2007, Defendants filed Objections to Magistrate Judge McQuaid's
7 Report and Recommendation (#59). The only issue raised in Defendant's Objections is a
8 clarification that the individual identified as "Defendant Hammons" is not a party to the
9 action as she has never been served by Plaintiff and, as a result, counsel for Defendant has
10 sought no relief on behalf of Ms. Hammons. Counsel for Defendants ask that any Order
11 sustaining Magistrate Judge McQuaid's Report and Recommendation exclude any
12 conclusions of law regarding the unserved Defendant identified as "Defendant Hammons."

13 The Court having conducted a de novo review of the foregoing, and in accord with 28
14 U.S.C. § 636(b)(1)(B) and (C) and Local Rule IB 3-2, the Court finds that the Report and
15 Recommendation of Magistrate Judge McQuaid (#51) with respect to Defendant's Motion to
16 Dismiss (#15) should be sustained and the relief recommended therein is hereby adopted by
17 the Court.

18 IT IS FURTHER ORDERED that to the extent Defendant's Objections (#59) seek
19 clarification that the Report and Recommendation entered by Magistrate Judge McQuaid
20 (#51) shall not constitute any conclusion of law with respect to unserved Defendant,
21 "Defendant Hammons," said Objection is also sustained.

22 IT IS SO ORDERED.

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24 DATED: February 14, 2007

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27 PHILIP M. PRO
28 United States District Judge